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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/876,550	06/07/2001	Pericles Deavila	25-19-101	7541

7590 05/23/2003

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/876,550**

Applicant(s)  
**Deavila**

Examiner  
**Vanaman**

Art Unit  
**3618**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 4, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-108 is/are pending in the application.
- 4a) Of the above, claim(s) 40 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 and 42-108 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 2, 10 6) ☐ Other:

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### **Applicant's Response**

1. Applicant's response, filed March 4, 2003, has been entered in the application. The election of Invention 1, directed to a cart, is acknowledged. An office action on claims 1-39 and 42-108 follows.

### **Claim Objections**

2. Newly drafted claim 49 is objected to for the following informality: on line 1, "devices" should be --device--. Appropriate correction is required.

### **Claim Rejections - 35 USC § 112**

3. Claim 38, and Newly Drafted claims 64, 65, 99-101, and 103-107 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 38, lines 6-7 it is not clear what particular structural recitation is being referred to by "with provisions for other uses"; in claim 64, it is not clear what particular elements are specifically being recited by "the other components of the apparatus"; claims 99, 100, 101, and 104-106, all submitted as newly drafted claims in the most recent amendment, contain terms lacking a clear antecedent basis; and a number of these claims appear to have been written with incorrect dependencies-- either the antecedent basis issues or the claim dependencies should be corrected.

In claim 103, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. In claim 107, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

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**Claim Rejections - 35 USC § 102**

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, 5, 21, 22, 24-26, 31, 42, 44, 45, 48, 55, 57, 58, 60, 62, 81, 82, 84, 85, 86, 90, 92-98, 107 and 108 are rejected under 35 U.S.C. 102(b) as being anticipated by Pool (US 5,702,115). Pool teaches a self-contained cart for carrying health and safety items, having a shell with a base (12), a top (90), a plurality of vertical walls (44) having flat sides suitable for display purposes, a plurality of horizontal walls (30, 50, etc.), movable divider elements (72, 74) a pivotable table (32), a plurality of doors (24, 48) which may be removed and which, when open, allow a user to determine what is stored in the cart, a water supply (62), a waste water disposal tank (60), both of which tanks having a degree of flexibility, the supply connected to a spigot (58) which is positioned above- and which supplies water to- a sink (52) positioned in a recess (at 40), with the supply and waste tanks positioned in a lower recess (see fig 3), the sink connected to the waste tank with tubing (figure 3), the cart taught to be constructable out of a plastic (col. 7, lines 23-24), a plurality of caster wheels (14), at least two of which are capable of being moved to an infinite number of positions, and handles (28a, 48a) which allow a user to manipulate the cart, and which would additionally allow a user to carry or tilt the cart, the cart further containing a battery power supply (68), plurality of pumps (64) in fluid connection with a plurality of fluid sources including the water source (62), at least a heater (col. 5, lines 43-46) for heating a supply of water, further pumps (64) being arranged for the distribution (through further spigots 58) of lotion and soap, the cart further containing a cup dispenser (92), and being capable of carrying a communications device (102).

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As regards claims 84 and 85, to the breadth of the recitation, the doors 'can be used' as a stretcher to support a person if removed from the cart; as regards claims 92-96, the cart can be configured to accommodate items for a variety of purposes.

Intended Use:

Please note that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

### **Claim Rejections - 35 USC § 103**

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 4, 7, 30, 46, 47 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool.

Claim 2- The reference to Pool is discussed in detail above and fails to teach the provision of the vertical and horizontal walls as integrally molded. It is old and well known to make an integrated element from plural taught elements for the purpose of reducing manufacturing costs and steps, and in view of Pool teaching the cart as optionally being made from plastic, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the

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vertical and horizontal walls from a single plastic element for the purpose of reducing manufacturing costs.

Claim 4- The reference to Pool fails to teach window portions in the doors. The examiner hereby takes Official Notice that it is very old and well known to make doors with built in windows for the purpose of allowing a user to see through a portion of the door, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide windows in the doors taught by Pool for the purpose of allowing a user to see through at least a portion of the doors.

Claim 7- The reference to Pool fails to teach a further centered pair of caster wheels. To duplicate or multiply parts to enhance the effectiveness of an arrangement is not deemed to be beyond the skill of the ordinary practitioner, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a further pair of wheels as taught by Pool, in a central location, to provide a more even load distribution.

Claim 30- The reference to Pool fails to teach further dispensers for tissue and eye-glass cleaners. In view of the use of the cart to Pool as being directed to medical hygiene, it is not considered to be beyond the skill of the ordinary practitioner to provide dispensers for further cleaning implements, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a dispenser for tissue and glasses cleaners for the purpose of allowing the cleaning of everyday items, such as eyeglasses, often encountered in a hospital space.

Claim 36- The reference to Pool fails to specifically teach the provision of a first aid kit. In view of the use of the cart in a health-care environment, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a first aid kit on the cart to allow a user to administer first aid from the cart directly.

Claims 46, 47- The reference of Pool fails to specifically teach the use of quick disconnect non-leaking fittings in plumbing the water supply. In view of the modular nature of the cart, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide

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quick disconnect fittings with built-in shut offs, for connecting up the water system, for the purpose of allowing maintenance to be quickly performed without the need for special tools.

Claim 83- The reference to Pool fails to teach the provision of a stiffening insert in the doors. The provision of stiffeners on structural elements for the purpose of reinforcement is old and well known, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the doors with a stiffening insert for the purpose of reinforcing them.

8. Claims 6 and 103-106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Rigo (US 5,820,143). The reference to Pool is discussed above and fails to teach the provision of a flange element with an aperture which accommodates a ground engaging element which may be used to hold the cart in place and support it otherwise. Rigo teaches a cart having casters (48) and plural flanges (bottoms of 54), positioned along one side of the cart, with an aperture therein (figure 4) through which is engaged a threaded fastener which mounts a ground-engaging element (56) which may serve to hold the cart in place on a ground surface, and support the cart on other surfaces. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the flanges and ground engaging elements taught by Rigo to at least one side of the cart of Pool for the purpose of allowing the cart to be held in place on a ground surface, if desired.

9. Claims 8, 9, 37, 99-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Walker (US 4,625,949). The reference of Pool is discussed above and fails to teach the provision of a lifting provision in the form of an eyelet at the top of the cart, connected to a suspension rod extending through the top and base, and connected to a support member at the base of the shell. Walker teaches a wheeled cart having a lifting element including an eyelet (70) connected to a rod (69) which extends down to the base of the cart, and supports the cart base (43) through a support element (72, 73). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with the lifting provision taught

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by Walker for the purpose of allowing the cart to be easily machine moved, for example, when desiring to shift the cart from one level to another.

10. Claims 10 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Kos (US 5,833,330). The reference of Pool is discussed above and fails to teach the provision of a transparent sheet on one of the vertical walls, for allowing printed matter to be viewed through the sheet. Kos teaches an assembly with a vertical wall (e.g., 110), which is provided with a transparent sheet (130) for allowing printed matter (145, 150) to be viewed therethrough. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a transparent sheet as taught by Kos to a vertical wall of the cart taught by Pool for the purpose of allowing printed matter to be viewed without damaging it.

11. Claims 11, 12, 14, 17, 63-68 and 87-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Cox (US 5,518,258). The reference of Pool is discussed above and fails to teach the doors as being pivotally mounted to the cart to perform as a table or seat, including folding leg portions, or usable as a free standing table. Cox teaches a portable cart having a wheeled base, and door portions (38, 46, 50) which cover storage portions (20) of the cart, wherein the portions may be deployed so as to be pivoted from the cart (figure 7- 46, 50) or removed from the cart (38, figure 7), including extensible, pivotal legs (e.g., 52, 56), forming slats to the degree claimed, which are attached both to the door portions of the cart and the side portions of the cart (when the door portions are folded), the portions usable as tables or for a seat at a table height. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with the folding portions taught by Cox and usable as a table or seat for the purpose of allowing a greater amount of working space to the user of the cart.

12. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Tisbo et al. (US 5,975,660). The reference to Pool is discussed above and fails to teach the doors as having handles positioned thereon. Tisbo teaches a modular storage device including a plurality of removable doors (26, 28) which are provided with handles (see figures 1, 7, 8, 9, 10, etc.). It



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would have been obvious to one of ordinary skill in the art at the time of the invention to provide the doors taught by Pool with handles as taught by Tisbo et al. for the purpose of allowing a user to easily grasp and manipulate the door portions.

13. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Cox and Insalaco et al. (US 5,605,344). The reference of Pool as modified by Cox is discussed above and fails to teach the door portions as having a further hingedly attached movable portion which may be deployed. Insalaco et al. teach a door structure having a first part (e.g., 58) and a second part (e.g., 60) which parts are foldable with respect to one another. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the door structure taught by Pool and modified by Cox as a pair of pivotally connected portions as taught by Insalaco et al. for the purpose of allowing the doors to be folded to a compact configuration when open.

14. Claims 18-20, 38, 56, 69-80 and 91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Stein (US 6,296,626, filed 11/1998). The reference of Pool is discussed above and fails to teach an eyewash connected to the cart, receiving water from a water supply, and including a water waste collection, utilizing gravity-feed flow, and being pivotable from a stowed to a deployed condition, with either a frictional device or catch to hold the eyewash in a stowed position. Stein teaches an eyewash apparatus including a gravity feed supply (14) a shell (12/16) and pivotable eyewash mechanism (42) which pivots from a stowed position (figure 4) to a use position (figure 5), and is maintained in the stowed position absent manipulation from a user by a latch (56, 58) which has a detent and frictional engagement, the eyewash of Stein being provided with an outlet (32) which allows waste wash to be carried away. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with an eyewash station as taught by Stein for the purpose of allowing a user to clear harmful materials from the user's eyes, further it would have been obvious to

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connect the outlet taught by Stein with the waste water collection portion taught by Pool for the purpose of consolidating waste materials generated at the cart.

As regards claims 78 and 80, while the reference to Stein fails to teach the eyewash supply as being derived from the heated washing supply taught by Pool, it would have been obvious to one of ordinary skill in the art at the time of the invention to couple the eyewash to the supply taught by Pool for the purpose of allowing both systems to use the same supply.

15. Claims 23, 32-35, 50, 51 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Silva (US 4,998,302). The reference of Pool is discussed above and fails to teach a supply system allowing the mixing of heated and unheated water, a light, a warning light, and a connection to an external power source. Silva teaches a cart having a first (16) unheated supply and a second (17) heated supply of water, which may be mixed (19, 29), a connection to an electrical supply (50, 51), an illumination light (55) and warning lights (59, 62). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with plural water supplies and a mixing device as taught by Silva for the purpose of allowing a user to access both hot and cold water, similarly it would have been obvious to provide a connection to an external electrical source for the purpose of charging the battery, and not draining the battery when a fixed current source is available. Further, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with illumination so as to allow a user improved lighting around the cart, and it would have been obvious to provide warning lights to indicate the approach of an undesirable condition in the water supplies. As regards claim 51, the references of Pool and Silva are not limited in the particular nature of the water which may be provided in the supplies.

16. Claims 27, 28 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Cox (US 6,220,610, filed 5/1999, 5/1998). The reference of Pool is discussed above and fails to teach the provision of a drinking water supply and spigot, with a gravity feed. Cox

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('610) teaches a wheeled cart which is provided with a gravity feed tank (14) having a spigot (34) for dispensing drinking water. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with a gravity feed drinking water supply and spigot as taught by Cox for the purpose of allowing a separate distribution of drinking water from the cart.

17. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Cox ('610) and Haley (US 6,131,929, filed 6/1998). The references of Pool and Cox ('610) are discussed above and fail to teach a refrigeration unit for cooling the drinking water. Haley teaches a cart having a water distribution system, and further having a refrigeration device (col. 4, lines 39-41), which may be used to chill items on the cart. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with a refrigeration device as taught by Haley for the purpose cooling a water supply in the cart of Pool as modified by Cox, for example to facilitate the provision of chilled water. While the reference of Haley fails to specifically teach the location of the refrigeration unit, for the purpose of chilling a water supply, it would have been considered obvious to one of ordinary skill in the art at the time of the invention to locate the unit between a supply of water and the device for dispensing it in order to achieve a desired degree of cooling.

18. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Stein and Silva. The references of Pool and Stein are discussed above and fail to teach the provision of a heated water supply and lights. Silva teaches a cart having a first (16) unheated supply and a second (17) heated supply of water, which may be mixed (19, 29), and an illumination light (55). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool as modified by Stein with plural water supplies and a mixing device as taught by Silva for the purpose of allowing a user to access both hot and cold water. Further, it would have been obvious to one of ordinary skill in the art at the time

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of the invention to provide the cart of Pool as modified by Stein with illumination as taught by Silva so as to allow a user improved lighting around the cart.

19. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Haley. The reference of Pool is discussed above and fail to teach a refrigeration unit for cooling the drinking water. Haley teaches a cart having a water distribution system, and further having a refrigeration device (col. 4, lines 39-41), which may be used to chill items on the cart. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with a refrigeration device as taught by Haley for the purpose cooling a water supply in the cart of Pool, for example to facilitate the provision of chilled water.

20. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Silva and Haley. The reference of Pool as modified by Silva is discussed above and fail to teach a refrigeration unit for cooling the drinking water. Haley teaches a cart having a water distribution system, and further having a refrigeration device (col. 4, lines 39-41), which may be used to chill items on the cart. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool as modified by Silva with a refrigeration device as taught by Haley for the purpose cooling the cool water supply in the cart of Pool as modified by Silva, for example to facilitate the provision of chilled water instead of unheated room temperature water as would be provided by Silva's "cold" water supply.

21. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Tagg (US Des. 391,343, cited by applicant). The reference of Pool is discussed above and fails to teach a foot pump for distributing water from the supply. Tagg teaches a cart having a water dispensing apparatus, wherein the distribution of water is powered by a foot pump (see figures 1, 5 ). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with a foot pump option for pumping the water from the supply for the purpose of conserving the energy of the battery source.

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22. Claim 59 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pool in view of Kaish et al. (US 5,997,928). The reference of Pool is discussed above and fails to teach the cart as including a global positioning system device. Kaish et al. teach a movable cart (1) which may be used to dispense articles, and which includes a global positioning device (107), provided for the purpose of determining the location of the cart. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Pool with a global positioning device as taught by Kaish et al. for the purpose of allowing the location of the cart to be determined by a user.

Intended use:

Applicant is again reminded that a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, and *In re Otto*, both cited above.

### **Conclusion**

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nickolaus, Jr. (US 5,664,853), Halvorson, Jr., et al. (US 5,848,798), Smith (US 5,918,323), and Brown (US 6,047,866) teach cart structures of pertinence.

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24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry;  
informal or draft communications may be faxed to the same number but should be  
clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)  
703-872-9327 (Official After Final communications)  
703-872-9325 (Customer Service)

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**

F. Vanaman  
May 19, 2003

